

Speech of Mr. Cushing, of Massachusetts, on the right of petition, as connected with petitions for the abolition of slavery and the slave trade in the District of Columbia

SPEECH OF R. CUSHING, OF MASSACHUSETTS, IN THE RIGHT OF PETITION, AS CONNECTED WITH PETITIONS FOR THE ABOLITION OF SLAVERY AND THE SLAVE TRADE IN THE DISTRICT OF COLUMBIA: IN THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1836.

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SPEECH.

Mr. CUSHING said: I hold in my hand several Petitions on the subject of the slave interest in the District of Columbia. One of them, I now present to the House. Upon it, I make the preliminary motion, understood to be necessary in such cases, that it be received; and, in reference to this question, I have some few remarks to submit to the consideration of the House.

This Petition prays for the abolition of slavery, and the slave trade, in this District. It is respectful in its terms, being free from the offensive expressions and reflections contained in some of the Petitions on the same subject, heretofore presented; it is signed by inhabitants of Haverhill, in the State of Massachusetts; and among the subscribers are

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the names of Citizens of that State whom I personally know, whom I avouch to be highly respectable, and who, whether mistaken or not in their views, are assuredly actuated by conscientious motives of civil and religious principle. They are constituents of mine; they have transmitted to me the Petition, desiring me, as their Representative, to present it; and, under these circumstances, much as I have deprecated such a commission, and reluctant as I am to be instrumental in the introduction of any matter of excitement upon this floor, I cannot permit myself to hesitate in the discharge of this painful duty, believing, as I do, that it is the constitutional right of every American, be he high or be he low, be he fanatic or be he philosopher, to come here with his grievances, and to be heard upon his petition by this House.

These petitioners look to me to obtain them a hearing in this place; they have a right to require this office of me; they have, in my judgment, a right to be heard; and so long as I have the honor to hold a seat in this House, no constituent of mine, however humble his condition or unwelcome his prayer, shall see his petition thrust back in his face unheard, while the gift of reason or speech remains to me; for if it cannot be received and considered in the usual forms of legislation, it shall be heard through the lips of his Representative. Nor will I undertake to scan, over-captiously, either the object of his petition, or the language in which it is couched; nor will I stop to inquire how far the petitioners and I myself entertain the same opinions of the general subject-matter. And there are particular inducements, which impel me to make a stand at the present moment upon this Petition.

I declare and protest in advance, that I do not intend, at this time at least, to be drawn or driven into the question of slavery, in either of its subdivisions or forms. At home, I am known to be of those, who long ago foresaw and early withstood the coming of this anti-slavery agitation. 4 Of the many occasions when I have actively interposed in this behalf, I hope to be pardoned for distinctly citing one, as vesting in me some title to be candidly heard by the House. I allude to a published Address upon the slave question, in which I deliberately asserted the constitutional rights of the South in this matter. It shall

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be my aim, on this occasion, to do and say nothing inconsistent with myself, with the letter of the Constitution, or with the spirit of the various compromises of interest and opinion incorporated into the union of these States.

The members of this House have been frequently called, during the present session, to vote upon divisions connected with petitions of this nature. On those occasions I have been content to pronounce my vote simply, and without explanation, leaving my reasons and motives to be construed or misconstrued by others, as chance might order. To have continued so to do, until the subject of present controversy were finally disposed of, is the part I should altogether have chosen, had circumstances permitted to me such a course. But, if I have been a silent, I have not been an incurious, nor, I trust, an uninstructed, spectator of events. It is rendered apparent that those great matters, which occupy the public mind abroad, do now occupy also this House. If other gentlemen, differing with me in part or in whole, had voted without discussion, according to the dictates of their individual judgment, each of us could fairly have stood upon his personal convictions, and his personal estimation elsewhere, for his justification in the eyes of his countrymen. But that, much as it were in my view to be desired, is no longer possible. What has happened here is enrolled already in the unchangeable records of time and of eternity. It is become history. It cannot be recalled; it cannot be blotted from the memory; it cannot be expunged from the annals of the country. The winged words uttered in this House have gone forth to the world, on their mission of good or of evil. Debate we have; debate we must have; we are goaded into debate; it is forced upon us; and from a quarter of the Union whence, I am frank to say, I did not look for it to come; and forced upon us in terms of dictation, which I cannot brook; since they leave to me no alternative of escape from debate, but in the passive surrender of some of the dearest of our birthrights, those of free petition, free speech, and free conscience. I say, of free speech and free conscience, both which are involved in the resolutions moved some time since by a gentleman from Maine, (Mr. Jarvis.) When these resolutions shall be distinctly before the House, it will become its members to reflect whether they have the constitutional right to attempt, or attempting,

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have the power to enforce, what those resolutions seem to contemplate, a perpetual prohibition of debate, and even of motions, upon a large and comprehensive class of subjects. These rights, neither my constituents nor myself feel disposed to surrender; and upon one of these great liberties of the land, and for the sake of incidentally vindicating the others, I shall, in due time, address the House at length.

My only object, at this time, is to come to a fair understanding with the House as to the cause to be pursued in the debate, and the disposition it will make of these Petitions.

At a very early period of the session, a gentleman from South Carolina (Mr. Hammond) met such petitions with the motion that they be not received. All the debates, which ensued thereon, terminated in evasive and unsatisfactory votes for laying on the table, which left every question of principle unsettled.

Afterwards, on a similar objection to reception being made by a gentleman from Georgia, (Mr. Glascock,) my colleague (Mr. Adams) appealed from a ruling of the Speaker on an incidental point of order, which appeal, and the matters connected with it, have been put off, day after day, and week after week, and still remain suspended for some future time of consideration.

Then came a set of resolutions applicable to a part of the prayer of these petitions, moved by a gentleman from Maine, (Mr. Jarvis,) under which there is a debate in progress, on an amendment moved by a gentleman from Virginia, (Mr. Wise,) to the effect that Congress have no power granted by the constitution to legislate on the subject of slavery in this District.

Finally, on the last occasion when petitions of this kind were presented, the question of reception being raised, that question was, by vote of the House, laid on the table; as happened this morning in the case of those petitions presented by my colleague (Mr. Adams;) the operation of which is, practically, to refuse to receive the petitions.

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Now, I am wholly dissatisfied with this course of proceeding, and I cannot submit to it in regard to the Petitions, which I am charged to present. I hold that the question of reception, as it is in fact and of necessity the first in order of time, so is it the first in order of principle. It must not be pushed aside to make place for the discussion of speculative resolutions, or for debate on the merits of the question raised by the prayer of these petitions. I maintain that the House is bound by the Constitution to receive the petitions; after which, it will take such method of deciding upon them as reason and principle shall dictate. It should first lend an attentive and respectful ear to the prayer of the People. Whether it can or will grant that prayer, is an after consideration. I have already kept back for several weeks the petitions committed to me, in order to shape my course according to the deliberate decision of the House; but that decision does not come; it is continually procrastinated for the sake of considering questions, which, in my view, are secondary in time and in principle to the question of reception; and I can no longer consent that these my constituents shall be held waiting, as it were, at the doors of the Capitol for admission, when, as I read the Constitution, they have a right to demand immediate entrance, and to be respectfully received by their assembled representatives.

I tender to the House, therefore, an alternative. I place this Petition at their disposal. If they choose to fix absolutely on a time certain for considering and deciding the question of reception, so that this shall take precedence of the other debate, they will then have this day, as usual, for its appropriate business of the general presentation of petitions. But if they decide, as heretofore, to lay the question of reception on the table, then I shall feel myself constrained to take the floor upon another of these Petitions, and to keep it, as under the late decision of the House I have a right to do, until I have fully debated the whole subject-matter. if the effect of this shall be to exclude all other petitions for the day, I cannot help it. Be the responsibility on their heads who raise this novel and extraordinary question of reception, going to the unconstitutional abridgment, as I conceive, of the great right of petition inherent in the People of the United States.

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[The question, Shall this petition be received? was then, at the motion of a gentleman from South Carolina, (Mr. Hammond,) laid on the table; when Mr. Cushing resumed the floor and said:]

I now present to the House a Petition signed by inhabitants of Amesbury, in the State of Massachusetts, among the subscribers to which are persons whom I know and avouch to be citizens of the United States. They pray for the abolition of slavery and the slave trade in the District of Columbia, and in the Territories under the jurisdiction of the United States. I make the preliminary motion that it be received; and, upon that motion, I proceed to express my views to the House.

Steering clear of all the inflammable matter intruded into these debates, gauging myself to the standard of the most absolute moderation, and resolutely tying down my thoughts to the real point in issue, what I propose to examine is the single naked question of the constitutional right of petition, as involved in the disposition of these petitions.

Looking into the Constitution I find, among the amendments proposed by the Congress of 1789, and the very first of the number, the following article:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or *the right of the People peaceably to assemble and to petition the Government for a redress of grievances.*”

Long before I had imagined that such a right would ever be called in question, I remember to have read the remark of a distinguished jurist and magistrate of the State of Virginia, (Tucker's Notes on Blackstone,) complaining that the concluding words of the clause I have cited from the Constitution did not so strongly guard the great right of petition, as the liberties of the People demanded. On the other hand, a still more distinguished jurist and magistrate, of my own State, (Story's Commentaries,) in remarking upon the same

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article, expresses the opinion that it is ample in terms; because, he add, "It (the right of petition) results from the very nature of the structure and institutions of a republican government; it is impossible that it should be practically denied until the spirit of liberty had wholly disappeared, and the People had become so servile and debased as to be unfit to exercise any of the privileges of freemen." These eminent constitutional lawyers agreed in opinion of the importance of the provision; they differed only in thinking, the one, that the right of petition could not be too clearly defined; the other, that whether defectively defined or not in the letter, the People would take care that it should in spirit be faithfully observed. While the first entertained a wise jealousy of the encroachments of the People's representatives, the other looked for the protection of the public rights to the People themselves, the masters of the People's representatives. And as the fears of the former have been verified too speedily, I trust that the hopes of the latter will be not less truly realized.

There are some things in the context and phraseology of this article of the Constitution which may deserve attention. It speaks of "*grievances*" in the general; not "*their* grievances," the *personal* grievances of the individuals petitioning, but anything, public or personal, which they deem to be a grievance. It is the same article, which allows to us the free exercise of our religion, and the liberty of speech and of the press. With these primary and fundamental rights of a free people, it associates the right of petition. But there is this peculiarity in the language of this clause of the Constitution. The words applicable to our subject are, "Congress shall make no law abridging the right of the People to petition the Government for a redress of grievances." The right of petition, therefore, is not a privilege conferred by the Constitution. It is recognised as a pre-existing right, already possessed by the People, which they still reserve to themselves, and which Congress shall not so much as touch with the weight of a finger. The People, in their constitution, say to Congress,—We place in your hands our right and power of collecting a revenue to provide for the common defence and general welfare of the Union; our right and power to regulate commerce, to coin money, to declare war, and to raise and support armies and

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navies for its prosecution. Upon these and other subjects you may exercise the discretion, which we repose in you by virtue of our constitution. But this you shall not do:—you shall not, until after the expiration of twenty years, prohibit the migration or importation of such persons as we think proper to admit; you shall not pass any bill of attainder; you shall not lay any tax or duty on exports; and you shall make no law prohibiting the free exercise of religion, or abridging the freedom of speech or of the press; or the right of the People peaceably to assemble and petition the government for a redress of grievances. These our great natural rights we keep to ourselves; we will not have them tampered with; respecting them we give to you no commission whatsoever. And rights which Congress itself, the entire Legislature, consisting of the President, the Senate, and the House, acting in their combined functions in the enactment of a law, is forbidden to abridge,—can this House alone undertake, by a mere resolution or vote, practically to deny, abolish, and destroy? Sir, if we can successfully do it, I have greatly misconceived the democratic ancestry, the democratic principles, and the democratic energy of the People, whom we are appointed to serve in this House.

The right of petition, I have said, was not conferred on the People by the Constitution, but was a pre-existing right, reserved by the People out of the grants of power made to Congress. To understand its nature and extent we must, therefore, look beyond and behind the Constitution, into the anterior political history of the country.

And, in the first place, I beg of the House, and especially of the gentlemen who so ably represent Virginia on this floor, to remember how this article found its way into the Constitution.

You well know, sir, that when the Constitution was submitted to the People of the respective States for their adoption or rejection, it awakened the warmest debates of the several State conventions. Some of them, in accepting the proposed plan of government, coupled their acceptance with a recommendation of various additions to the Constitution, which they deemed essential to the preservation of the rights of the States, or of the

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People. The Commonwealth of Massachusetts insisted, among other things, on the adoption of that memorable amendment, to the effect, "that it be explicitly declared that all powers not expressly 8 delegated by the aforesaid constitution, are reserved to the several States, to be by them exercised." Having attained this object, and thus clearly ascertained what powers it was that she parted with to the Federal Government, she felt less anxious in regard to some things which, in other States, were deemed important. Especially, she did not, for herself, demand the insertion of those general clauses of political doctrine, popularly called, at that time, after the celebrated English bill of rights, and known in some modern European constitutions by the name of *guaranties*. She was less tenacious on this point, inasmuch as her own Constitution was very full in this respect. It contained two clauses material to the present question, in the following words:

"All power residing originally in the People, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents."

"The People have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of address, petition, or remonstrance, redress of the wrongs done them, and of the grievances they stiffer."

These clauses being in her own Constitution, I say, and it being understood by her that all powers not granted to the United States were reserved to the States, she felt that she was safe in agreeing to the fundamental compact of the Union.

The People and the Commonwealth of Virginia reasoned differently from this; and I will not stop to argue whether they did or did not reason more wisely than Massachusetts. They said, We choose to leave nothing doubtful which language can render certain, in a matter of so much moment. We are laying the foundations of a government, which we hope may outlast the Pyramids. We know, from old experience, that the depositaries of the

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popular power are ingenious in the finding of glosses and interpretations to abstract from the popular rights. Let us see to it that this constitution contain such express recognitions of the rights of the People as it shall be impossible to misunderstand. We will write upon its very front the great doctrines of liberty in characters of light, which, like the burning letters in the banqueting-hall of Belshazzar, may blast the eye-balls of whomever shall meditate treason to the democratic rights we have conquered with our blood and our fortunes. Accordingly, the convention of Virginia proposed to amend the Constitution by inserting therein the following, among other clauses:

“That all power is naturally vested in, and consequently derived from, the People; that magistrates, therefore, are their trustees and agents, and at all times amenable to them.”

“That the People have a right peaceably to assemble together to consult for the common good, or to instruct their representatives; and that every freeman has a right to petition the Legislature for redress of grievances.”

New York, North Carolina, and Rhode Island proposed, either literally or in substance, the same provision; and the consequence was, the addition to the constitution of the article, which I am now discussing, on the right of conscience, speech, and petition. And, such being the history of this clause, I look to the gentlemen from Virginia especially, constant and honorable as they are in their attachment to constitutional principles at whatever hazard, to go with me in maintaining inviolate this great Original right of the People.

But we shall not fully appreciate the force and value of this provision, if we stop at this point of the investigation. The right of petition is an old undoubted household right of the blood of England, which runs in our veins. When we fled from the oppressions of kings and parliaments in Europe, to found this great Republic in America, we brought with us the laws and the liberties, which formed a part of our heritage as Britons. We brought with us the idea and the form of our legislative assemblies, composed of elected representatives of the people; we brought with us the right of petition, as the necessary incident of such

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institutions. For when, in the whole history of our father-land, has the right of petition ever undergone debate and question? Go back to the old parliamentary rolls, coeval with Magna Charta; peruse the black-letter volumes in which the early laws and practices of the English monarchy are seen to be recorded; and so far as you find a government to exist, you find the right to petition that government existing also as an undeniable franchise and birthright of the humblest in the land. The Normans came over, lance in hand, burning and trampling down every thing before them, and cutting off the Saxon dynasty and the Saxon nobles at the edge of the sword; but the right of petition remained untouched. In all succeeding times, from the day when the barons at Runnymede pledged themselves to deny to no man redress of his grievances, through every vicissitude of revolution and of war, down to the day when our forefathers abandoned their native Country, the same right of petition continued without challenge. In the next reign, it is true, that of the misguided Charles I, the king invaded the public liberties; and he expiated the wrong, as he merited, by a felon's death. After the Commonwealth had passed away, came the petition of right, and with it the statute of the 13 Charles II, distinctly recognising the old right of petition, and regulating the mode of its exercise; and again, after the dethronement and exile of James II, the Bill of Rights and the statute of 1 William and Mary, again recognising and regulating the right of petition as it has been exercised at all times throughout Great Britain.

Now, I ask gentlemen to point me, in all or any of the periods under review, to the precedents of a refusal by Parliament to receive petitions. I invite them to turn over the histories of parliamentary proceeding, and cite me the examples of petitions being thrust out of the House of Commons or of Lords, at the instant of presentation, on the ground that the prayer of the petition ought not to be granted. Will they do it? Can they do it? Is it not perfectly notorious, on the contrary, that every subject is freely admitted to be heard in his petition, provided it be respectful in terms, even although he pray expressly for a downright revolution in the government, as did the thousands of petitioners who thus carried through, in our own time, the great measure of parliamentary reform? And shall the

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People in republican America, with its written constitution for the protection of the public rights, and by a body of strictly limited powers,—shall the People here be forbidden to do that which they may freely do in the monarchy of England, having no guaranties for the public liberty except laws and prescriptive usages, all of them confessedly at the will of an omnipotent Parliament? Forbid it, reason! Forbid it, justice! Forbid it, liberty! Forbid it the beatified spirits of the revolutionary sages, who watch in heaven over the destinies of the Republic!

Aye, but, say gentlemen, if such things are not done by the representatives of the People in monarchical England, they have been done by their representatives in democratic America. We are told of precedents at home. What are those precedents?

To begin, I throw aside, as wholly inapplicable to the question, or at least as evasive of it, the case of petitions refused on account of disrespectful language towards the persons or the body petitioned. Those constitute a standing exception, independent of the merits of the subject.

The proceedings of this House in 1790, in reference to petitions on the matter of the slave trade, and of slavery in the States, have been cited. It has been said that those petitions were not received. That is a mistake, as any gentleman may satisfy himself by recurrence to the journals of the House. The petitions were received, committed, and debated on report, as I shall have occasion hereafter to state at length.

One other case is cited, that of the petition of Vicente Pazos, agent of New Granada, which, in the year 1818, the House refused to receive. But the printed debates of that day show clearly the ground of rejection. Mr. Forsyth moved that it be not received. "He stated that, as the petitioner was the agent of a foreign power, and applied to Congress as an appellate power over the Executive, he thought it improper that he should be thus heard." And the question was decided upon this single point. I heartily approve the remarks

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then made by a distinguished statesman, now no more, who at that time represented Massachusetts on this floor.

Mr. Mills, of Massachusetts, said that “the right of petition was a sacred one, and belonged equally to the meanest and the greatest citizen in the nation; and if such a petition as this, implicating the conduct of the Executive, had been presented from the meanest citizen, he would receive it; and if it complained of grievances without pointing out redress, it would be the duty of the House to give the proper redress; but it was to our own citizens only he would turn this listening ear. What right had a foreign subject to petition this House?”

Sir, I have incidentally touched upon the argument of precedents, and shown how untenable it is; but I care not if there were a thousand precedents of refusal to receive petitions. Such a fact, if it existed, would not abate my zeal on this point, or shift, in the minutest degree, my position. Upon the Constitution, upon the preexisting legal rights of the People, as understood in this country and in England, I have argued that this House is bound to receive the Petition under debate. It is impossible, in my mind, to distinguish between the refusal to receive a petition, or its summary rejection by some general order, and the denial of the right of petition. I have no such microscopic eye as to enable me to discern the point of difference between the two things. This procedure may be keeping the word to the ear, but it is breaking it to the sense: and I go upon general, abstract, original, fundamental principle, the 11 great principle of democratic liberty, which is the foundation stone of this Republic. It is for the sacred and inalienable rights of the People that I here contend. I should regard the exclusion of petitions from the consideration of the House as a highhanded invasion of the imprescriptible rights of the Constituency of the country, of whom we are the representatives, not the dictators; and it is for that reason I take my stand against it on the very threshold.

Sir, I am a republican; and I desire to see this House observe the principles of that democracy which is ever on the lips of its members, and which, I hope, is in their hearts, as I know and feel it is in mine, and mean it shall be in my conduct. This Republic

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was called into being, organized, and is upheld, by a great political doctrine. That doctrine is, that the People alone are supreme; that they are the fountains of power; that all magistrates are the delegated agents of the People, for the purposes limited and prescribed in their letters of appointment, and the general laws of the land; that the constituents of a member of this House have the right to give instructions to him individually; and that every individual one of the People has a right to be heard by petition on the floor of this House. These are among the things which I understand to constitute the principles of democracy: those general principles, which I learned in my boyhood with my catechism, in the bill of rights prefixed to the constitution of my own State; which, on maturer study, I have seen to be avowed more or less distinctly, in all the constitutions of this Republic, and of each of its constituent Republics; which I perceive to be defended and applauded in the writings of the great text authors of political science in modern times; and which, after being for the first time practically exemplified in our own institutions, have gone forth over the universe, toppling down thrones, and raising up freemen, through all the nations of Christendom.

And whilst I feel impelled by such convictions to resist the summary rejection of this Petition upon principle, I am irresistibly led to the same conclusion by considerations of policy and expediency. I deny that such considerations should decide the question; but seeing they have been urged into it, I shall concede to them all due respect.

We have been told that the prayer of the Petition is for a thing which the Constitution does not permit to Congress, and so the petition itself should not be received. I ask of the House how it appears that we have no right by the Constitution to legislate upon the subject-matter of the Petition? It may be so; and it may not. One member of the House has earnestly averred that it is; another that it is not. Which of them is right I confess, for myself, that I cannot think it becomes the House to decide either way, upon the mere *ipse dixit* of individual members. Besides, the Petition calls in question not only slavery, but also the *commerce in slaves*. And will any gentleman affirm that the slave trade of the District is among those holy things which Congress may not constitutionally handle? Is this District

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set apart by the Constitution, under whatever? changes of opinion or fact the progress of civilization may introduce, to be unchangeably and forever a general slave market for the rest of the Union? I confess that I, again, am disappointed in that, among all the confident things said in denial of the constitutional 12 powers of Congress in this matter, there has not been, so far as I remember, any systematic argument on the perfectly distinct branches of the double constitutional question involved in it, namely, the slave property, and the slave traffic, of this District. And what shall be said of our constitutional power in the purchased Territories, under the jurisdiction of the United States, to which some of these petitions apply? And what clause of the Constitution restricts the right of Petition to constitutional things? This House cannot grant beyond its powers; these are limited by the Constitution; but the People may petition for any thing; for the right of petition is, by the constitution, secured forever against any and every limitation or restriction.

But then it is said that the subject-matter of the Petition does not admit of debate; that the deliberate consideration of it, and the decision of it in the ordinary course of business, would be fraught with disastrous consequences to the peace of the South, and the general tranquillity of the Union. Deeming this argument of more weight than the other, I will give to it more careful attention; especially as, on this point, gentlemen have appealed with great force of language to the patriotic consideration of the North.

In the first place, I aver that I, and those with whom I have acted or voted, did not seek debate on this subject. We felt anxious, almost universally, to avoid it. The members from Massachusetts, at least, have not invited, and, until it had been under discussion among other gentle men for a whole month, they scarcely-participated in, the agitation of the subject in this House. We sat here week after week, submitting, for the sake of public peace, to hear in silence the harshest reflections upon our constituents; and listening, with surprised curiosity, to the Strangest legal and political heresies, uttered as confidently as if they were gospel truths communicated by divine inspiration. One of my colleagues (Mr. Adams) did, indeed, beseech gentlemen not to provoke him to a discussion of the subject;

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and thus it went on, untouched by us, until another of my colleagues (Mr. Hoar) could no longer abstain from the temperate defence of the Constitution and of his fellow-citizens.

In the second places I do devoutly believe that gentlemen misjudge, if they suppose that agitation out of doors is to be arrested by the quashing of these petitions on their very introduction to this House. With my whole heart I accord in the view of the subject taken some time since by an honorable gentleman from New York, (Mr. Hunt,) and which I know is taken by one of the wisest and most trusted of the statesmen of Virginia, now a member of the other branch of Congress. If there be any plausible reason for supposing that we have the right to legislate on the slave interests of the District, you cannot put down the investigation of the subject out of doors, by refusing to receive petitions. On the contrary, you give the petitioners new force and efficiency, by giving them a new cause of complaint and of excitement. Nor do you attain any thing, so far as this House is concerned; for, by shutting out petitions, you do not shut out debate; any member of the House can bring on de bate any day, by moving some general resolution applicable to the subject. On the other hand, if it be so certain that Congress have no power in this matter, or having power, ought not to exercise it, then let the 13 House establish those points in the usual way, by a deliberate report, elaborated in the closet, by a committee of the ablest men upon this floor, and considerately adopted by the House. The argument by which this course is withstood, goes upon a false assumption. It assumes for granted, that the People of the United States are not to be reasoned with; that their opinions can be put down by bold and broad assertions at this or the other end of the Capitol; and that they are not to be trusted with the facts and law of the case. Here, again, as I conceive, gentlemen forget that this government is a republican one, resting exclusively in the intelligence and virtue of the People. I, for one, am willing they should look into any of the clauses of the Constitution, and be fully informed of the merits of every question arising under it, never doubting that, in the end, their decision upon it will be just, true, and patriotic. Or is it that gentlemen are afraid to meet a proper scrutiny of the subject? Do they shrink from a fair and full examination of its merits or demerits?

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Sir, allusion has been made, in an early stage of this debate, to the history of the excitement which once pervaded a considerable part of the country, in reference to the transportation of the mails on the Lord's day. It is undoubtedly a pregnant case, directly in point. But I have another case, yet more cogent and pertinent.

Within less than one year after the adoption of the Constitution, there came to Congress petitions, chiefly from New York, Pennsylvania, Maryland, and Virginia, and especially from the Society of Friends, praying Congress to suppress the slave trade, and to interpose, in various ways, within the limits of the several States, in the melioration of the condition of the colored population of the South. I have examined the journals giving the record of the proceedings in this House; I have looked into the history of the times, to understand the grounds of the disposition then made of those petitions. In the outset, I will observe, that the debates on the subject present a remarkable parallel with what has taken place under my own eyes in this House. Messrs. Jackson, Baldwin, Tucker, Smith, and some other gentlemen from the South, insisted, as we now hear it insisted, that the petitions should be summarily rejected, without commitment. They alleged the same reasons; such as unconstitutional object, and pernicious effects of the discussion upon the interests of the slaveholding States. One gentleman did, I believe, what I suppose would hardly be done at this day, entering into an elaborate vindication of the trans-Atlantic slave trade. But there was one most eminent and most patriotic member of that House, a man as calm in judging as he was deliberate in acting; who had himself been instrumental among the first in laying the foundation of this Union; who since then has successively filled the highest stations which the laws of his country acknowledge; and who yet lives, in a venerable old age, to receive the admiration of his countrymen, and to enjoy the rare felicity of surviving, as it were, a witness of the honors bestowed upon him by posterity. *Sero redeat in cœlum*. Long may it be ere he depart from among us, to take his place among the great and glorious of other times. Sir, the House well anticipate that I have in my eye James Madison the younger, who stood forth to pour upon the troubled waves of that day the oil of peace and gladness. God grant there may yet be found among 14 his

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patriotic countrymen some good and great man—a better and a greater there cannot be—now to perform the self-same office for the Republic.

At that crisis, in the very greenness of the immature youth of the Constitution, when it was least able to bear the shock of sectional collision, Mr. Madison, Southerner as he was, steadily opposed his friends from the South, and successfully advocated the commitment of the petitions. I submit to the House his speech, as I find it very briefly reported in the newspapers of that day.

“Mr. Madison observed, that it was his opinion yesterday that the best way to proceed in this business was to commit the memorial without any debate on the subject. From what has taken place, he was more convinced of the propriety of the idea. But, as the business has engaged the attention of many members, he would offer a few observations for the consideration of the House. He then entered into a critical review of the circumstances respecting the adoption of the constitution, the ideas upon the limitation of the power of Congress to interfere in the regulation of the commerce in slaves, and showing that they undoubtedly were not precluded from interposing in their importation, and generally to regulate the mode in which every species of business shall be trans acted. He adverted to the Western country, and the cession of Georgia, in which Congress have certainly the power to regulate the subject of slavery, which shows that gentlemen are mistaken in supposing, that Congress cannot constitutionally interfere in the business in any degree whatever. He was in favor of committing the petitions, and justified the measure by repeated precedents in the proceedings of the House.”

I produce this speech, not for the purpose of adopting all its views, for some of them I confess are new to me, and such as I have not had time or means to investigate, but in order to show conclusively what Mr. Madison deemed wise and proffer to be done in a contingency so precisely like the present. Accordingly, all the petitions were committed to a select committee; that committee made a report; the report was referred to a committee of the whole House, and discussed on four successive days; it was then reported to the

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House with amendments, and by the House ordered to be inscribed in its journals, and then laid on the table.

That report, as amended in committee, is in the following words: "The committee to whom were referred sundry memorials from the people called Quakers; and also a memorial from the Pennsylvania society for promoting the abolition of slavery, submit the following report, (as amended in committee of the whole.)

"First, That the migration or importation, of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by (Congress prior to the year 1808."

"Secondly, That Congress have no power to interfere in the emancipation of slaves, or in the treatment of them, within any of the States: it remaining with the several States alone to provide any regulation therein which humanity and true policy may require."

"Thirdly, That Congress have authority to restrain the citizens of the United States from carrying on the African slave trade, for the purpose of supplying foreigners with slaves, and of providing, by proper regulations 15 for the humane treatment, during their passage, of slaves imported by the said citizens into the States admitting such importations."

"Fourthly, That Congress have also authority to prohibit foreigners from fitting out vessels in any part of the United States for transporting persons from Africa to any foreign port."

Now, I entreat the House to call to mind the effect of these proceedings. There was no insurrection, no servile war, no agitation in the South. Congress calmly and considerably examined the whole broad question, not of the slave trade only, but also of the slave interest. It decided how far it could go, and how far it would go. Its decision went forth to the world, and settled the questions involved in it, as it were, forever. Nearly fifty years have since elapsed, and I am not aware that the points then adjudged have at any time since been drawn into debate or controversy. And I do declare my solemn conviction, that if the House would now pursue the same course, and dispassionately determine what it

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can or cannot do, and make that determination known to the country in a respectful way, the result would be precisely the same in this vexed question of the District of Columbia.

Entertaining these opinions of the course to be pursued, I beg of gentlemen to look at the question, as I have done, in a calm review of facts and of principles. They deprecate all agitation unfriendly to the peace and reciprocal good-will of the different sections of the country. So do I, most heartily; and in my own humble sphere I have earnestly exerted myself to this end. And I do, unwillingly but decidedly, avow my conviction, derived from abundant personal observation, that it is not by the summary suppression of petitions, it is not by *Lynching* this or any other petition, that tranquillity is to be restored, and harmony assured, either in the South or the North. And whilst I entreat of individual members of the House to regard this question in calmness, and conclude it in judgment, as they would any lesser question, I warn and adjure the House itself, as a constituent branch of this government, to beware lest, in deciding this general question of the right of petition, it overleap the bounds prescribed to it by the Constitution.

Men of Virginia, countrymen of Washington, of Patrick Henry, of Jefferson, and of Madison, will ye be true to your constitutional faith? Men of New York, will ye ride over the principles of the democracy ye profess? Men of the West, can ye prove recreant to the spirit of sturdy independence, which carried you beyond the mountains? Men of New England, I hold you to the doctrines of liberty which ye inherit from your Puritan forefathers. And if this House is to be seared, by whatever influences, from its duty to receive and hear the petitions of the People, then I shall send my voice beyond the walls of this Capitol for redress. To the People I say, Your liberties are in danger; they, whom you have chosen to be your representatives, are untrue to their trust; come ye to the rescue; for the vindication of your right of petition, to you I appeal; to you, the People who sent us here, whose agents we are, to whom we shall return to render a reckoning of our stewardship, and who are the true and only sovereigns in this Republic.

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